

Report / Decision on a Non-notified Resource Consent Application

(Sections 95A, 95B, and 104 / 104A)

Application Number: RMA/2025/3257
Applicant: Sovereign Palms Limited
Site address: 47 Hawkins Road and 7 Selkirk Place, Marshlands
Legal Description: Lot 4001 DP 606190
Zoning: Residential New Neighbourhood
Overlays and map notations: Liquefaction Management Area
Activity Status: Controlled

Description of Application: Global consent for disturbance and removal of contaminated soil in association with new dwelling construction lots within stages 6 – 14 of subdivision consented by RMA/2022/927 where an activity identified on the Hazardous Activities and Industrial List (HAIL) has been undertaken.

Introduction

The applicant seeks a global consent for the disturbance and removal of contaminated soil in association with new dwelling constructions on lots within Stages 6 – 14 of a subdivision consented by RMA/2022/927 (Oakbridge subdivision). The majority of land in Stages – 14 of the Oakbridge subdivision are listed as HAIL due to persistent pesticide usage associated with historic orchard and market gardening.

This application for a global consent includes the elements below:

- Contaminated soil is to be removed from the site with disposal to occur at an appropriately managed fill facility thus on-site remediation is not sought as part of this application.
- Stage 6 is estimated to undertake 0.5m depth of topsoil disturbance for each lot and a maximum of approximately 330m³ of soil disturbance.
- Soil disturbance is to be undertaken through a site management plan for stages 7 to 14. Soil sampling in Stages 7 – 14 will occur once subdivision earthworks are completed and topsoil has been placed. Separate topsoil investigation reports will be prepared for stages 7 -14 and will be submitted to the council upon completion. A condition is imposed as part of this report in relation not this.

The volume of soil removal from the site is also proposed to exceed Regulation 8(3)(d) (ii) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulation 2011.

Existing environment

The application site and surrounding environment are described in section 2 of the application. I adopt the applicant's description.

The stages include following lots.

- Stage 6 (10 lots) Being Lots 199- 208
- Stage 7 (42 lots) being Lots 137 -149, 255- 271, 278, 424-434)
 - Stage 7A being lots 424 – 434, 258 – 265, 269 -271 and lot 278.
 - Stage 7B being lots 137 –149, 266 -268, 255-257.
- Stage 8 (37 lots) being Lots 272-277, 279-309)
- Stage 9 (24 lots) being Lots 310- 333
- Stage 10 (31 lots) being Lots 334- 364
- Stage 11 (27 lots) being Lots 365- 391
- Stage 12 (18 lots) being Lots 392- 409
- Stage 13 (24 lots) being Lots 410- 423
- Stage 14 (9 lots) being Lots 435- 443.

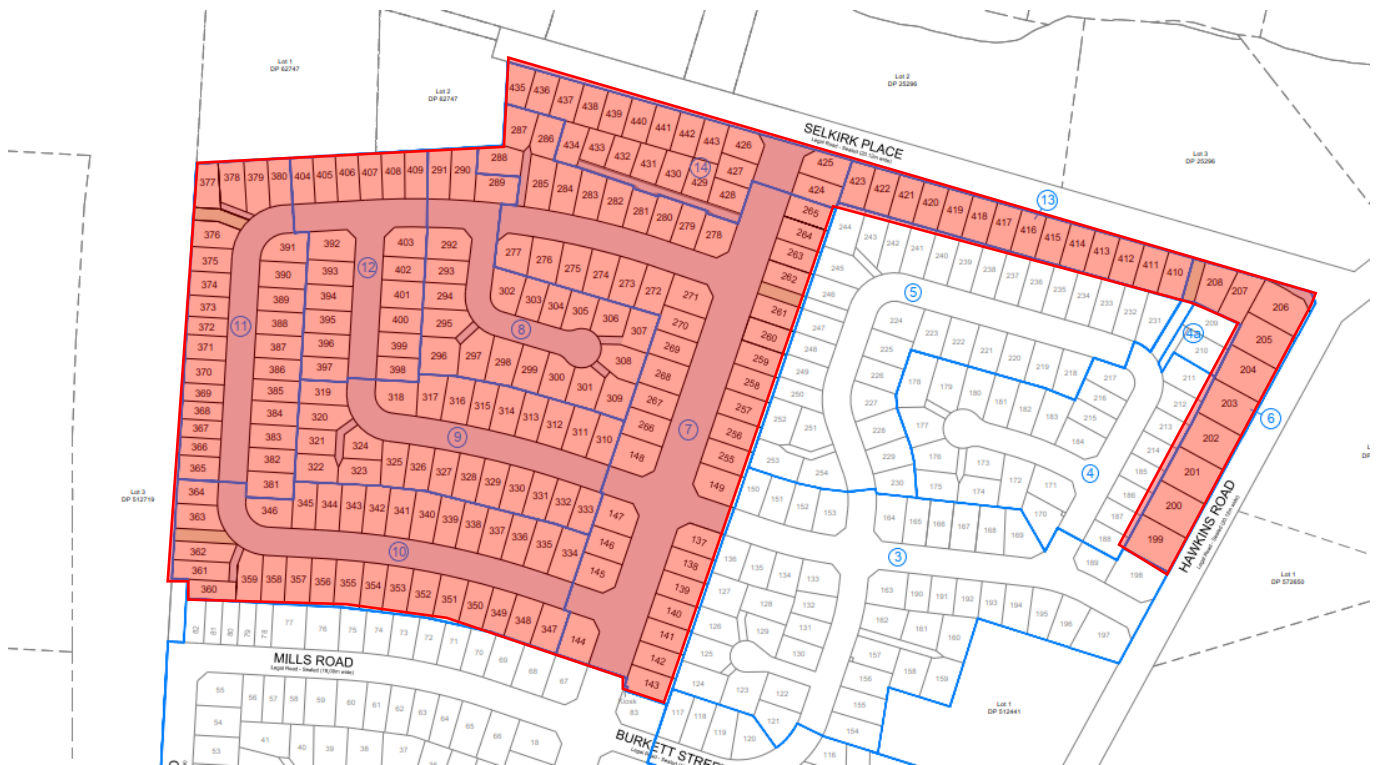


Figure 1. Application site (Stages 6 -14) from RMA/2023/1314.

Classification of activity

The National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) seek to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed and if necessary the land is remediated or contaminants contained to make the land safe for human use.

The NES controls soil disturbance on land where an activity on the Ministry for the Environment's Hazardous Activities and Industries List (HAIL) is being carried out, has been carried out, or is more likely than not to have been carried out. The application site has been identified as HAIL land therefore the provisions of the NES apply.

The proposal requires consent under the NES as it breaches the following provisions:

- **Regulation 8(3)(c)** – the volume of soil disturbance will exceed 25m³ per 500m²
- **Regulation 8(3)(d)(ii)** - the volume of soil to be removed from the site will exceed 5m³ per 500m²

Pursuant to Regulation 9(1) the proposal is a controlled activity under the NES as:

- A Detailed Site Investigation (DSI) of the piece of land exists and has been submitted with this application; and
- The report on the DSI states that the soil contamination does not exceed the applicable standard in Regulation 7, and the report has been provided to the Council.

Regulation 9(5) of the NES provides that applications for controlled activities must not be publicly notified.

Written approvals [Sections 95D, 95E(3)(a) and 104(3)(a)(ii)]

No written approvals have been provided with the application.

Effects on the environment and adversely affected persons [Sections 95A, 95B, 95E(3) and 104(1)(a)]

The application is a controlled activity under the NES. Regulation 9(2) limits the matters over which control is reserved to:

- (a) the adequacy of the detailed site investigation, including site sampling, laboratory analysis and risk assessment;
- (b) how the activity must be managed (which may include the requirement for a site management plan), monitored, and reported on;
- (c) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity;
- (d) the timing and nature of the review of the conditions in the resource consent; and
- (e) the duration of the resource consent.

Council Environmental Health Officer, Jindina Locke, has provided the following comments.

- Most of the land contained heavy metals and DDT above background levels.
- There were several small localised contaminated areas which had arsenic or lead just above the Residential 10% Produce Soil Contamination Standards (SCS) thus Davis Ogilvie has provided a Remedial Action Plan (RAP) in 2021. The remediation was carried out in 2022 and 2023.
- A Site validation Report (SVR) was prepared by Davis Ogilvie Ltd in 2023 shows that all localised areas except for remedial area D was remediated below SCS. Remedial area D was retested and showed that the lead level is below SCS.

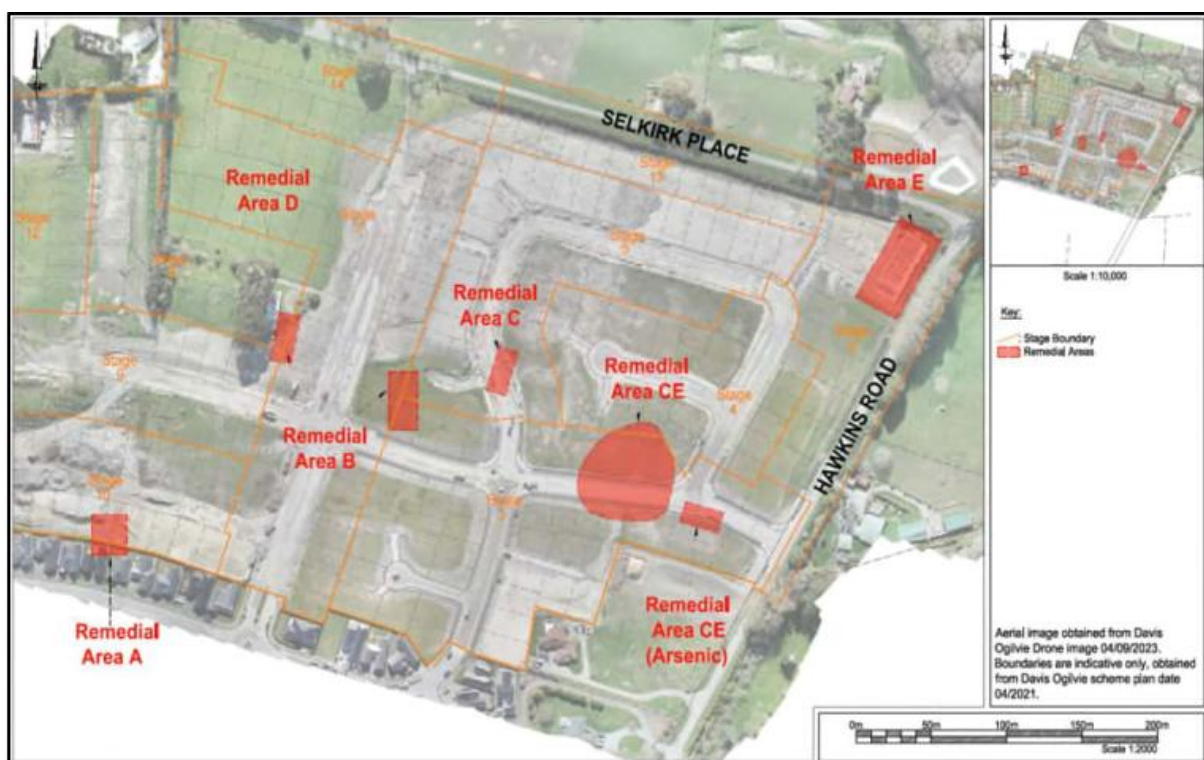


Figure 2. Remedial areas indicating identified contamination in excess of Residential 10% Produce Soil Contamination Standard (SCS).

Ms Locke further confirmed that the site is now suitable for residential (10% produce) land use however the testing shown that the remaining soil across the land is still consistently above background levels for heavy metals especially copper.

A Site Management Plan has been provided by David Ogilvie for Stage 6 as part of this application which includes a Topsoil Investigation Report. The applicant has requested that both Topsoil Investigation Reports and Site Management Plans for stages 7 – 14 be required as a condition of this consent.

I accept Ms Locke's assessment and recommend that her suggested conditions be incorporated as part of this consent. Subject to compliance with the SMP and other conditions, I consider that the stages 6 – 14 will be appropriately managed so as to avoid adverse effects on human health.

Notification assessment [Sections 95A and 95B]

Sections 95A and 95B set out the steps that must be followed to determine whether public notified or limited notification of an application is required.

PUBLIC NOTIFICATION TESTS – Section 95A

<i>Step 1: Mandatory notification – section 95A(3)</i>	
Has the applicant requested that the application be publicly notified?	No
Is public notification required under s95C (following a request for further information or commissioning of report)?	No
Is the application made jointly with an application to exchange reserve land?	No
<i>Step 2: If not required by Step 1, notification is precluded if any of these apply – section 95A(5)</i>	
Does a rule or NES preclude public notification for all aspects of the application?	Yes
Is the application a controlled activity?	Yes
Is the application a restricted discretionary or discretionary activity for a subdivision?	No
Is the application a restricted discretionary or discretionary activity for residential activity?	No
Is the application a boundary activity (other than a controlled activity)?	No
<i>Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)</i>	
Does a rule or NES require public notification?	N/A
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? (discussed above)	N/A
<i>Step 4: Relevant to all applications that don't already require notification – section 95A(9)</i>	
Do special circumstances exist that warrant the application being publicly notified?	No

In accordance with the provisions of section 95A, the application must not be publicly notified.

LIMITED NOTIFICATION TESTS – Section 95B

<i>Step 1: Certain affected groups/persons must be notified – sections 95B(2) and (3)</i>	
Are there any affected protected customary rights groups or customary marine title groups?	No
If the activity will be on, adjacent to, or might affect land subject to a statutory acknowledgement - is there an affected person in this regard?	No
<i>Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95B(6)</i>	
Does a rule or NES preclude limited notification for all aspects of the application?	No
Is this a land use consent application for a controlled activity?	Yes
<i>Step 3: Notification of other persons if not precluded by Step 2 – sections 95B(7) and (8)</i>	
Are there any affected persons under s95E, i.e. persons on whom the effects are minor or more than minor, and who have not given written approval? (discussed above).	N/A
<i>Step 4: Relevant to all applications – section 95B(10)</i>	
Do special circumstances exist that warrant notification to any other persons not identified above?	No

In accordance with the provisions of section 95B, the application must not be limited notified.

Relevant objectives, policies, rules and other provisions of the District Plan [Section 104(1)(b)(vi)]

The application is a permitted activity under the District Plan and is therefore consistent with its objectives and policies.

Relevant provisions of a National Environmental Standard, National Policy Statement, Regional Plan, Regional Policy Statement or Coastal Policy Statement [Section 104(1)(b)]

The National Environmental Standard for managing contaminants in soil to protect human health is discussed above.

Part 2 of the Resource Management Act and any other relevant matters [Section 104(1) and 104(1)(c)]

The above considerations are subject to Part 2 of the Act which outlines its purpose and principles.

Taking guidance from recent case law¹, the District Plan is considered to be the mechanism by which Part 2 is given effect to in the Christchurch District. The Plan has recently been reviewed, and was competently prepared through an independent hearing and decision-making process in a manner that appropriately reflects the provisions of Part 2. Accordingly, no further assessment against Part 2 is considered necessary.

Recommendations

That, for the above reasons:

- A. The application be processed on a **non-notified** basis in accordance with Sections 95A - 95F of the Resource Management Act 1991.
- B. The application **be granted** pursuant to Sections 104, 104A, 108 and 108AA of the Resource Management Act 1991, subject to the following condition:
 1. The development shall proceed in accordance with the information and plans submitted with the application.
 2. All works in stage 6 (lots 199-208) shall be undertaken in accordance with the Site Management Plan prepared by Davis Ogilvie, dated 23rd September 2025, stored in Council's electronic records as 25/2121954.
 3. No later than 10 working days prior to the commencement of any works in each of stages 7-14 (lots 137-149, 255-443), topsoil investigations are to be undertaken and separate Topsoil Investigation Reports for each stage shall be prepared by a Suitably Qualified and Experienced Practitioner. These shall be provided to Council by email to rcmon@ccc.govt.nz.
 4. No later than 10 working days prior to the commencement of any works in stages 7-14 (lots 137-149, 255-443), a Site Management Plan (SMP) for these lots shall be prepared by a Suitably Qualified and Experienced Practitioner. This shall be provided to Council by email to rcmon@ccc.govt.nz.
 5. All contaminated soils removed from the site will not be suitable to be disposed of at a clean-fill facility and must be disposed of at a facility whose waste acceptance criteria permit the disposal.
 6. No later than 20 working days following the disposal, the consent holder or persons operating under the consent shall submit evidence (i.e. weighbridge receipts or waste manifest) of the disposal of surplus soils from the site to an authorised facility to the Council by email rcmon@ccc.govt.nz.
 7. In the event of contamination discovery, e.g. visible staining, odours and/or other conditions that indicate soil contamination, the work must cease until a Suitably Qualified and Experienced Practitioner (SQEP) has assessed the matter and advised of the appropriate remediation and/or disposal options for these soils.

Advice Notes:

- This resource consent covers soil disturbance/earthworks only. A separate consent is required for any bulk and location non compliances on the site.
- Disposal of tested soils to location other than Burwood Landfill or an approved landfill facility with respect to any hydrocarbon impacted soils may also need the approval of Environment Canterbury.
- **Monitoring** will be carried out to ensure the **conditions are complied with** and that the development proceeds in accordance with the plans and details which were submitted with the application.

¹ R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316

The Council will require payment of its **administrative charges** in relation to monitoring, under section 36 of the Resource Management Act 1991. The monitoring programme administration fee and document verification fee will be charged to the applicant with the consent processing costs. If more than one inspection, or additional monitoring activities (including those relating to non-compliance with conditions), are required, the additional time will be invoiced to the consent holder when the monitoring is carried out, at the applicable hourly rate. The current monitoring charges are outlined on the Resource Management Fee Schedule.

Reported and Recommended by: Luke Kim Level 2 Planner

Date: 14/10/2025

Decision

That the above recommendation be adopted for the reasons outlined in the report.

Delegated Officer:



Sean Ward
Team Leader Planning
15/10/2025